

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Melanyn Rivas	Team: Squad #09	CCRB Case #: 202202947	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/07/2022 5:30 PM	Location of Incident: In front of 456 E 137th St	18 Mo. SOL 11/7/2023	Precinct: 40		
Date/Time CV Reported Mon, 05/09/2022 3:41 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 05/09/2022 3:41 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Brandon Quiles	13921	967656	PSA 7
2. PO Joshua Espana	15092	966559	PSA 7
3. PO Jihad Mahmud	22821	969928	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A . PO Brandon Quiles	Abuse: Police Officer Brandon Quiles stopped § 87(2)(b)	
B . PO Jihad Mahmud	Abuse: Police Officer Jihad Mahmud stopped § 87(2)(b)	
C . PO Joshua Espana	Abuse: Police Officer Joshua Espana stopped § 87(2)(b)	
D . PO Brandon Quiles	Abuse: Police Officer Brandon Quiles frisked § 87(2)(b)	
E . PO Brandon Quiles	Abuse: Police Officer Brandon Quiles failed to provide § 87(2)(b) with a business card.	
F . PO Jihad Mahmud	Abuse: Police Officer Jihad Mahmud failed to provide § 87(2)(b) with a business card.	
G . PO Joshua Espana	Abuse: Police Officer Joshua Espana failed to provide § 87(2)(b) with a business card.	
H . PO Brandon Quiles	Abuse: Police Officer Brandon Quiles failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
I . PO Jihad Mahmud	Abuse: Police Officer Jihad Mahmud failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
J . PO Joshua Espana	Abuse: Police Officer Joshua Espana failed to explain to § 87(2)(b) the reason for a law enforcement activity.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b) § 87(2)(g)	[REDACTED]	[REDACTED]

## Case Summary

On May 9, 2022, § 87(2)(b) filed the following complaint via the CCRB call processing system on behalf of her son § 87(2)(b).

On May 7, 2022, at approximately 5:30 p.m. § 87(2)(b) was walking past 456 E 137th Street, when he was stopped by Police Officers Brandon Quiles, Jehad Mahmud, and Joshua Espana of PSA 7 (**Allegations A – C: Abuse of Authority – Stop, § 87(2)(g)**). While speaking with § 87(2)(b) PO Quiles allegedly patted § 87(2)(b) down at the waist and lower back without permission (**Allegation D: Abuse of Authority – Frisk, § 87(2)(g)**). All three officers then got into their vehicle and drove away without providing § 87(2)(b) with a business card or explaining the reason for their law enforcement activity (**Allegations E, F, and G: Abuse of Authority – Failure to provide RTKA card, § 87(2)(g)**) (**Allegation H: Abuse of Authority – Failure to explain, § 87(2)(g)**) (**Allegations I and J: Abuse of Authority – Failure to explain, § 87(2)(g)**).

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(2)(b)

On May 17, 2022, the investigation received a video captured by § 87(2)(b)'s cellphone (**Board Review 05**).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Brandon Quiles stopped § 87(2)(b)**

**Allegation (B) Abuse of Authority: Police Officer Jehad Mahmud stopped § 87(2)(b)**

**Allegation (C) Abuse of Authority: Police Officer Joshua Espana stopped § 87(2)(b)**

**Allegation (D) Abuse of Authority: Police Officer Brandon Quiles frisked § 87(2)(b)**

Cellphone video footage provided by § 87(2)(b) captures PO Quiles, PO Mahmud, and PO Espana stopping § 87(2)(b) (**Board Review 07**). At the 5-second mark, PO Quiles is heard saying, “Come here, I want to talk to you.” At the 15-second mark, PO Quiles asks § 87(2)(b) “What are you grabbing at?” In response, § 87(2)(b) says, “Bro, what are you talking bro?” PO Quiles, who is standing in front of § 87(2)(b) goes on to ask whether he has identification on him. Meanwhile, PO Mahmud and PO Espana are seen standing behind around § 87(2)(b) opposite PO Quiles.

During his CCRB interview, § 87(2)(b) explained that on the date of the incident, he was walking by a parking lot adjacent to 456 E 137th Street, in the Bronx, when he noticed a police van stop in the middle of the street (**Board Review 13**). Inside the van were PO Quiles, PO Mahmud, and PO Espana, who approached and stopped him. § 87(2)(b) was wearing sweatpants and sneakers, and aside from his cell phone, he did not have anything in his pockets. As § 87(2)(b) pulled his phone out of his pocket, one of the officers told him, “Come here and put your hands up.” PO Quiles asked, “What do you have in your pockets?” § 87(2)(b) told PO Quiles that he did not have anything in his pockets. Without asking for permission, PO Quiles then patted § 87(2)(b)'s waist and lower back.

As part of his interview with the CCRB, PO Quiles explained that he and his partners approached § 87(2)(b) to make sure that, “Everything was okay,” and to ensure that he did not need police assistance (**Board Review 10**). Upon PO Quiles’ approach, PO Quiles asked § 87(2)(b) for his identification solely for the purpose of addressing him properly. At the time,

§ 87(2)(b) held his phone in front of PO Quiles' face, and PO Quiles instructed § 87(2)(b) to take his phone out of his hand for safety purposes as it could have been a "possible weapon." PO Quiles did not suspect that § 87(2)(b) had committed a crime, that he was the victim of a crime, or that he was carrying a weapon. Other than the phone, PO Quiles did not believe that § 87(2)(b) had anything else on his person. After PO Quiles deduced that § 87(2)(b) did not need police assistance, the officers left the scene.

During his interview with the CCRB, PO Mahmud acknowledged being present but was unable to say why § 87(2)(b) was approached and whose decision it was to approach (Board Review 11). PO Mahmud did not have a recollection of § 87(2)(b) being frisked.

In his interview with the CCRB, PO Espana acknowledged being present during the interaction, but could not remember what the interaction regarded and was unsure whether § 87(2)(b) had been frisked (Board Review 12).

Per People v. DeBour, 40 N.Y.2d 210 (1976) A significant interruption with an individual's liberty of movement constitutes a "seizure" (Board Review 04). DeBour further established that an officer may stop a person only if they reasonably suspect that the person is committing, has committed, or is about to commit a crime. Innocuous behavior, even in a high-crime area, does not provide reasonable suspicion. Subsequent to the right to temporarily detain an individual for questioning is the authority to frisk if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed (Board Review 04).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Police Officer Brandon Quiles failed to provide § 87(2)(b) with a business card.**

**Allegation (F) Abuse of Authority: Police Officer Jehad Mahmud failed to provide § 87(2)(b) with a business card.**

**Allegation (G) Abuse of Authority: Police Officer Joshua Espana failed to provide § 87(2)(b) with a business card.**

**Allegation (H) Abuse of Authority: Police Officer Brandon Quiles failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

**Allegation (I) Abuse of Authority: Police Officer Jehad Mahmud failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

**Allegation (J) Abuse of Authority: Police Officer Joshua Espana failed to explain to § 87(2)(b) the reason for a law enforcement activity.**

§ 87(2)(g)

During his CCRB interview, § 87(2)(b) stated that at the end of the interaction officers just walked back to their police van without telling him why he was stopped or patted down (Board

**Review 13).**

During his CCRB interview, PO Quiles explained that PO Quiles he did not recall whether he provided § 87(2)(b) a business card and stated that neither PO Espana nor PO Mahmud provided § 87(2)(b) with a business card (**Board Review 10**). PO Quiles stated that in the context of this particular incident, the provisions of the Right to Know Act did not apply.

PO Mahmud did not recall whether § 87(2)(b) was provided with a business card (**Board Review 11**). PO Mahmud did not have an independent recollection of the incident.

PO Espana acknowledged being present during the interaction but could not say whether § 87(2)(b) was provided with a business card (**Board Review 12**). PO Espana did not have an independent recollection of the incident.

Per, NYC Administrative Code 14-174(a)(2), a pedestrian stop is a “law enforcement activity state” (**Board Review 08**). Per NYC Admin. Code 14-174(b)(2), upon taking a law enforcement action, officers must provide an explanation of the reason for the action, unless providing the information would impair a criminal investigation. Per NYC Admin. Code 14-174(b)(3), officers must also offer a business card to such person at the conclusion of any such law enforcement activity that does not end in an arrest or summons.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

#### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 01**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 16**).
- PO Mahmud has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject.
- PO Quiles has been a member of service for three years and has been a subject in two other CCRB complaints and two other allegations, none of which were substantiated. § 87(2)(g)
- PO Espana has been a member of service for four years and has been a subject in three other CCRB complaints and four other allegations, of which one was substantiated.:
  - 202004031 involved substantiated allegations of Force- Physical force against PO Espana. The Board recommended command discipline B and the NYPD imposed no penalty.

#### Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of March 13, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim filed by § 87(2)(b) with the New York City Comptroller's Office relevant to the date and address of the incident (**Board Review 09**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 9

Investigator:	<u>Melanyn Rivas</u>	<u>Investigator Melanyn Rivas</u>	<u>06/23/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Wassim Abedrabbo</u>	<u>IM Wassim Abedrabbo</u>	<u>06/23/2023</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date